

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

MARVIN DEAN GOODSON §
VS. § CIVIL ACTION NO. 6:05cv351
ETMC, ET AL. §

ORDER OF DISMISSAL

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the civil rights complaint filed by a prisoner pursuant to 42 U.S.C. § 1983 should be dismissed pursuant to the “three strikes” provisions of 28 U.S.C. § 1915(g). The Plaintiff has filed objections saying that he does not have the money to pay the full filing fee.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of the Plaintiff are without merit. He may not proceed *in forma pauperis* in federal court due to his history of filing frivolous lawsuits and because he has not satisfied the exceptions to § 1915(g). It is further noted that the lawsuit would be dismissed as frivolous even if the Plaintiff had paid the full filing fee. A civil rights lawsuit filed pursuant to § 1983 must be filed against people acting under color of state law. The Plaintiff has sued a private entity and its staff. He may have a possible tort

claim in state court against the Defendants, but a § 1983 claim against them in federal court is frivolous. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the complaint is **DISMISSED** with prejudice for purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915(g). It is further

ORDERED that the Plaintiff's *in forma pauperis* status is revoked. The Plaintiff may resume his lawsuit if he pays the entire filing fee within thirty days from the entry of this order. *See Carson v. Johnson*, 112 F.3d 818, 823 (5th Cir. 1997). It is finally

ORDERED that all motions not previously ruled on are hereby **DENIED**.

So ORDERED and SIGNED this 17th day of November, 2005.

A handwritten signature in black ink, appearing to read "LEONARD DAVIS", is written over a horizontal line. The signature is fluid and cursive, with a large, stylized initial "L" on the left and a more formal "DAVIS" on the right.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE